* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

NEUTRAL CITATION NO: 2022/DHC/000677

BAIL APPLN. 4231/2020

Reserved on : 31.01.2022
Date of Decision : 22.02.2022

IN THE MATTER OF:

DEEPAK GOYAL ..... Petitioner
Through: Mr. Sanjay Hedge, Sr. Advocate with Mr. Mukesh Rana, Ms. Mamta and Mr.Randhir Kumar, Advocates

Versus

STATE ..... Respondent
Through: Mr. Amit Chadha, APP for State with Inspector Govind Singh, Police Station Uttam Nagar
Mr. Maninder Singh, Sr. Advocate with Ms. Smriti Asmita, Advocate for complainant

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI
(VIA VIDEO CONFERENCING)

J U D G M E N T

MANOJ KUMAR OHRI, J.

1. The present bail application has been filed under Section 439 Cr.P.C. on behalf of the applicant seeking regular bail in FIR No. 229/2013 registered under Sections 420/467/468/471/34 IPC at Police Station Uttam Nagar, Delhi.

2. Mr. Sanjay Hedge, learned Senior Counsel for the applicant, contended that the applicant has been falsely implicated in the present

case at the behest of the complainant. It was submitted that the applicant has been in custody for a total of about 41 months and the charge sheet having been filed, he is no longer required for any investigation. It was further submitted that the charge sheet in the case was initially filed in the year 2013, whereafter two supplementary charge sheets have been filed but till date, charge has not been framed.

3. On merits, it was stated that the applicant came in contact with the complainant through one common friend and co-accused, namely *Dharmender Yadav*. As per the prosecution case, the applicant has cheated the complainant to the tune of Rs.30 crores. During the pendency of bail proceedings before the Sessions Court, the applicant entered into a settlement on 20.07.2013, in pursuance of which, although the entire settled amount was not paid, a land worth Rs.8 crores was transferred to the complainant. Subsequently, on 25.02.2014, another settlement was arrived at with the complainant, which again did not fructify. The applicant, however, paid an amount of Rs.50 lacs to the complainant. Soon after, a third settlement was entered into between the parties on 10.12.2014, terms of which were again not fulfilled, though the applicant paid a sum of Rs.1.21 crores. In total, the applicant is stated to have paid Rs.3.90 crores to the complainant.

4. Learned Senior Counsel further contended that the case relates to the offences of cheating and forgery, and as such, the present criminal proceedings cannot become a mode of recovery. In this regard, he placed reliance on the decision of the Supreme Court in Dilip Singh *v.* State of Madhya Pradesh and Another reported as **(2021) 2 SCC 779**. It was prayed that considering the fact that the applicant has been in custody for about 3.5 years and yet charge has not been framed, the

further fact that 8-9 co-accused persons remain to be arrested, and the fact that the trial is not likely to conclude anytime in the near future, the applicant may be released on bail.

5. Mr. Amit Chadha, learned APP for the State, duly assisted by Mr. Maninder Singh, learned Senior Counsel for the complainant, vehemently opposed the bail application. It was submitted that the applicant had entered into a total of 8 property transactions with the complainant, out of which 5 are in Delhi and the remaining 3 are in Rajasthan. It was further submitted that initially the complaint was filed only with respect to cheating and forgery qua some of the properties, however during investigation, it has come on record that the applicant, in connivance with the co-accused persons, has cheated and defrauded the complainant to the tune of Rs.30 crores in relation to all the property transactions. It has also come on record that the properties in Delhi were sold to the complainant without disclosing that the same were mortgaged with multiple banks, which have separately filed their complaints against the present applicant. Insofar as the transactions with respect to the properties situated in Rajasthan are concerned, it was submitted that either the petitioner was not the owner of the immoveable properties or he impersonated as the original owner. It was further stated that with the sole intention to cheat and defraud the complainant, banks and various other persons, the applicant also committed the act of forgery, inasmuch as he prepared forged stamps, forged E-stamps and utilized them for the purpose of forging sale deeds, lease deeds, conveyance deeds, possession letters of DDA, possession hand over letters issued by the DDA etc.

6. It was also submitted that after registration of the present FIR, the

applicant was initially arrested on 09.05.2013, whereafter on the pretext of settling the dispute with the complainant, he obtained interim bail on 22.07.2013. The applicant has entered into settlement with the complainant thrice, but has failed to comply with the terms. On this pretext however, the applicant has enjoyed interim protection for about 07 years. While highlighting the applicant's conduct, it was also submitted that he had earlier approached this Court by way of BAIL APPLN. 1950/2017, wherein an interim application being CRL.M.(BAIL) 847/2018 came to be filed seeking interim bail on the ground that the applicant had to attend the '*tehravi'* ceremony of his uncle *Late Shri. Ghanshyam Dass,* which was scheduled for 28.05.2018. Considering the request of the applicant, he was directed to be released on interim bail for a period of 07 days vide order dated 24.05.2018. However, the applicant, instead of availing the benefit of the concession so granted, managed to be released from jail only on 08.06.2018 i.e., much after the date on which last rituals of his uncle were scheduled. After being released, the applicant did not surrender in time and was declared a proclaimed offender vide order dated 20.02.2019. He came to be arrested on 10.09.2020 i.e., after a period of about 02 years and 04 months. During investigation, 112 forged stamps of different Govt. offices/officers were recovered from the possession of the applicant.

7. Learned APP for the State also submitted that the applicant has been found involved in 14 other cases, which were registered after he was released on interim bail. Out of the said 14 cases, 2 cases were registered against the applicant while he was in judicial custody. There are a total of 19 accused persons in the case, out of whom 11 have already been declared proclaimed offender by the Trial Court, for which

reason the trial could not proceed.

8. Learned Senior Counsel for the complainant had additionally submitted that payment of Rs.3.90 crores by the applicant was not against the cheated amount. The said sum was paid in connection with another loan transaction entered into between the parties. It was also submitted that one piece of land situated in Rajasthan, stated to have been transferred in pursuance of the third settlement, was later on found to be disputed, against which a civil suit is pending and third parties have claimed ownership.

9. I have heard learned counsels for the parties and have also gone through the material placed on record.

10. The present FIR came to be registered on 07.05.2013, however a perusal of the material placed on record would show that the applicant remained on interim bail for most of the time, except when he was arrested intermittently for failing to comply with the terms of the settlements. On the assurance of settling the dispute with the complainant, the applicant has enjoyed interim protection for a period of about 07 years.

11. As per the Status Report placed on record, the applicant firstly entered into a property transaction with the complainant with respect to ground floor (without roof rights) and 3rd floor (with roof rights) of House bearing No. *H-32/103, Sector-3, Rohini, Delhi*. In pursuance of the same, the complainant made a payment of Rs.1.38 crores to the applicant and a Sale Deed was executed. During investigation, it has been found that the applicant initially sold the ground floor of the property to one *Rajinder Singhal* on 20.08.2009. Prior to the sale to the

complainant on 24.10.2011, both the aforesaid floors were already mortgaged with *Dena Bank, State Bank of Bikaner and Jaipur* and *Punjab and Sindh Bank* on 20.01.2009, 31.12.2009 and 20.04.2010 respectively.

At the time of mortgage, the applicant had submitted three forged Sale Deeds with respect to the aforesaid property, prepared using forged E-stamps and forged stamp papers of the Sub-Registrar, Delhi. In connection with the transaction, the applicant had also made the complainant speak to his brother i.e., co-accused/*Amit Goyal*, who had assured the complainant about the clear title and ownership of the applicant with respect to the ground and 3rd floors of the property. In this regard, the applicant had in fact showed partition deed to the complainant, which later on, was also found to be forged.

12. The applicant further defrauded the complainant by introducing one *Yamini Aggarwal* as his sister-in-law and the owner of various floors i.e., 2nd and 3rd floors of property bearing *No. F-19/25, Sector-8, Rohini*; 2nd floor (without roof rights) of property bearing *No. I-5/89, Sector-16, Rohini* and 1st floor (without roof rights) of property bearing *No. A-5/51, Sector-16, Rohini*.

13. The 1st and 2nd floors (with roof rights) of property bearing *No. F-19/25, Sector-8, Rohini* were mortgaged by the applicant with the *State Bank of Bikaner and Jaipur* on 29.10.2009. Thereafter, the two floors were again mortgaged by the applicant with *Punjab and Sindh Bank* on 14.08.2010. The 3rd floor of the property was sold to one *Anju/Rajinder Singhal,* who mortgaged the same with *Canara Bank.* The applicant stood as a guarantor to this mortgage. Eventually, the 2nd

and 3rd floors of the property were sold to the complainant's wife by *Yamini Aggarwal* on 11.11.2011, to which transaction the applicant stood as a witness.

14. The 2nd floor of the property bearing *No. I-5/89, Sector-16, Rohini* was mortgaged by the applicant with the *Canara Bank* and *Punjab and Sindh Bank* on 30.03.2010 and 28.05.2010 respectively. However, the property came to be sold to the wife of the complainant by *Yamini Aggarwal* on 11.11.2011, to which transaction as well the applicant stood as a witness. It has come in the investigation that all relevant sale deeds were found to have been prepared using forged E-stamps and forged stamps of Sub-Registrar.

15. Insofar as property bearing No. *A-5/51, Sector-16, Rohini* is concerned, it is stated to be owned by one *Neena Gupta* (i.e., cousin of the applicant), who had mortgaged the property with *Dena Bank* on 03.09.2007. In the loan document, the applicant stood as a guarantor. The property was again mortgaged with *State Bank of Patiala* as well as *State Bank of India* on 02.08.2007 and 19.09.2007 respectively. Despite knowing that the property was owned by *Neena Gupta*, the applicant produced *Yamini Aggarwal* as the owner and got the sale deed executed in favour of the complainant's wife on 11.11.2011, which he himself signed as a witness. This sale deed as well has been found to be forged, as it was prepared by using forged E-stamps and forged stamps of Sub-Registrar.

At the time of sale, it was stated that *Yamini Aggarwal* had purchased the property bearing No. *A-5/51, Sector-16, Rohini* from one *Mahender Kr. Goyal*, however, during investigation, it has come on record that the property was initially allotted to one *Akshay Dudhani*, who later sold the same to his brother *Suresh Dudhani*, who further sold the property to *Mahender Kr. Goyal*. During investigation, *Mahender Kr. Goyal* was examined, who stated that he had never sold the property to *Yamini Aggarwal*. As per the original transaction, *Mahender Kr. Goyal* had sold the property to one *Sunita*. A test of the sale deed provided to the complainant, as per which the property was transferred to *Yamini Aggarwal*, revealed that the thumb impressions on the deed were not of *Mahender Kr. Goyal*. They, in fact, matched with the thumb impressions of the applicant. It has been alleged that it was the applicant who had prepared the documents in relation to the sale transaction.

16. In similar fashion, the complainant was cheated with respect to property bearing No. *4A/47, Sector-23, Rohini, Delhi*. While 3rd floor of the property was already mortgaged with *Punjab and Sindh Bank*, 2nd floor was mortgaged with *Indian Overseas Bank*. Though the property was owned by the applicant's wife, the applicant introduced one *Manoj* as the owner of the property, who executed documents in favour of the complainant's company. During investigation, it has come on record that DDA had allotted the aforesaid property to one *Raj Kumar* and *Sushma*, however, in the sale documents handed over by the applicant to the complainant, the thumb/finger impressions of *Raj Kumar* did not match. It has further come in the investigation that *Raj Kumar* and *Sushma* had never sold the property to *Manoj* but to one *Raj Kr. Sahni*. *Manoj* is stated to be a worker/associate of the applicant, who is absconding till date.

17. Sale transactions were also entered into between the parties with respect to 99 bighas of land in *Lakher,* Jaipur; 6 bighas at *Chandwaji,*

Jaipur and 1225 sq mtrs. plot in the *Rajasthan State Industrial Development and Investment Corporation (RIICO), Industrial Area Kukas,* Jaipur. The said properties were sold by the applicant through *M/s Balaji Unique Builders Pvt. Ltd.*, a company of which he is a Director, and others, who were falsely projected as owners of the properties. During investigation, it has come on record that all the sale deeds, lease deeds, possession letters, conveyance deeds, perpetual lease deeds pertaining to the transactions were prepared using forged stamps of *Sub-Registrar, Amer* and *Asstt. Regional Manager, RIICO, Jaipur*. The names and addresses mentioned in the sale deeds were also found to be incorrect. The cheated amount with respect to the aforesaid properties is stated to be about Rs.25 crores, which was paid through RTGS/cheques. The cheques were encashed in the accounts of various firms and later on the amounts were either withdrawn in cash or transferred to the companies of the applicant, his wife, his mother and brother and other associates.

In relation to the sale transaction of agricultural land in Rajasthan, it has been stated that the applicant, despite being fully aware of the fact that he is not the owner of the mortgaged land and that the same could not be sold without conversion/permission from the competent authority, got mortgaged the said land through one *Mukesh Kumar Meena* in favour of the complainant's company. Reportedly, *Mukesh Kumar Meena* is an associate of the present applicant, who owns several bighas of land in Jaipur, purchased from the funds of *M/s Balaji Unique Builders Pvt. Ltd.* In fact, he is also a Director of the aforesaid company, besides the applicant, and the cheated money has travelled to the account of the company. It has been stated that the applicant has used forged E-stamps of approximately Rs.1.25 crores for the purpose of making forged sale deeds of properties in Rajasthan.

18. It has also been informed that the applicant is a joint account holder with his mother in various banks, wherein after transfer of the cheated amounts, the same were withdrawn. Alongwith the additional Status Report, list of involvements of the applicant has also been placed on record, which shows that all the cases were registered after the applicant was released on interim bail. As per the additional Status Report/second Additional Status Report, the applicant has been found involved in the following 14 cases:-

(i) RC-219/2013/E-0005 registered under Sections 420/467/468/471/120B IPC at Police Station CBI/EO-1/ND.

(ii) FIR No. 229/2013 registered under Sections 420/467/468/471/120B/34 IPC at Police Station Uttam Nagar.

(iii) FIR No. 707/2014 registered under Sections 420/467/468/471/120B/34 IPC at Police Station K.N. Katju Marg.

(iv) FIR No. 395/2015 registered under Sections 415/418/420/467/468/471/120B/34 IPC at Police Station North Rohini.

(v) FIR No. 428/2015 registered under Section 420 IPC at Police Station North Rohini.

(vi) FIR No. 157/2016 registered under Sections 420/406/120B IPC at Police Station South Rohini.

(vii) FIR No. 615/2016 registered under Sections 419/420/365/120B IPC at Police Station Maurya Enclave.

(viii) FIR No. 40/2018 registered under Sections 420/467/468/471/34 IPC at Police Station Prashant Vihar.

(ix) FIR No. 306/2019 registered under Sections 420/406/467/468/471/120B IPC at Police Station Bani Park, Jaipur West (Rajasthan).

(x) FIR No. 22/2021 registered under Sections 406/419/420/467/468/471/506 IPC at Police Station Yamuna Nagar, Sadar (Haryana).

(xi) FIR No. 258/2018 registered under Sections 420/467/468/471/120B IPC at P.S. South Rohini, Delhi.

(xii) FIR No. 520/2018 registered under Sections 193/403/406/420/424/467/468/471/120B at P.S. Vaishali Nagar, Jaipur West, Rajasthan.

(xiii) FIR No. 504/2021 registered under Sections 420/34/120B IPC at P.S. K.N. Katju, Delhi.

(xiv) FIR No. 10/2022 registered under Sections 323/341/34 IPC at P.S. Hari Nagar, Delhi.

As noted earlier, while the 14 cases mentioned above were registered against the applicant after he was released on interim bail, FIR No. 504/2021 and FIR No. 10/2022 were registered while he was in judicial custody.

19. Before proceeding further, it is deemed apposite to allude to the decision in P. Chidambaram *v.* Central Bureau of Investigation reported as **(2020) 13 SCC 337**, where while referring to Prahlad Singh Bhati *v.* NCT, Delhi and Another reported as **(2001) 4 SCC 280,** Kalyan Chandra Sarkar *v.* Rajesh Ranjan alias pappu yadav and Another reported as **(2004) 7 SCC 528,** Jayendra Saraswathi Swamigal *v.* State of T.N. reported as **(2005) 2 SCC 13** and State of U.P. through CBI *v.* Amarmani Tripathi reported as **(2005) 8 SCC 21**, the Supreme Court

recently summarised the principles relating to grant of bail as follows:-

*"**21.** The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:*

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;
(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;
(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;
(iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;
(v) larger interest of the public or the State and similar other considerations.

[Vide Prahlad Singh Bhati v. State (NCT of Delhi).]

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***23.** In Kalyan Chandra Sarkar v. Rajesh Ranjan, it was held as under : (SCC pp. 535-36, para 11)*

> *"11. The law in regard to grant or refusal of bail is very well-settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh and Puran v. Rambilas.)"

***24.** Referring to the factors to be taken into consideration for grant of bail, in Jayendra Saraswathi Swamigal v. State of T.N., it was held as under : (SCC pp. 21-22, para 16)*

> *"16. ... The considerations which normally weigh with the court in granting bail in non-bailable offences have been explained by this Court in State v. Jagjit Singh and Gurcharan Singh v. State (Delhi Admn.) and basically they are — the nature and seriousness of the offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case."*

***25.** After referring to para 11 of Kalyan Chandra Sarkar, in State of U.P. v. Amarmani Tripathi, it was held as under : (Amarmani Tripathi case, SCC p. 31, para 18)*

> *"18. It is well-settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and*

(viii) danger, of course, of justice being thwarted by grant of bail [see Prahlad Singh Bhati v. State (NCT of Delhi) and Gurcharan Singh v. State (Delhi Admn.)]. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused."

20. Adverting to the present case, this Court is constrained to note that the applicant has scant regard for the law. He has not only abused the concession of interim bail granted by the Session Court as well this Court to commit further offences, but also misused the concession of interim bail granted by this Court vide order dated 28.05.2018 by not availing the same for the sole purpose for which it was granted and managing to get released later, whereafter he absconded and could be arrested after more than 02 years and 04 months. Even though the applicant is stated to have been in custody for about 41 months, a perusal of the record would show that he has time and again tried to delay or evade the process of law.

Keeping in view the legal position set out in the decision referred to hereinabove, the instances of forgery committed by the applicant, not only in the transactions entered with the complainant but also with various banks/financial institutions which are stated to have filed their complaints as well, and his propensity to commit an offence of similar nature in future, besides the risk of his fleeing from justice, this Court is not inclined to admit the applicant on bail. Accordingly, the application is dismissed.

21. Needless to state, nothing stated hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case.

(MANOJ KUMAR OHRI)
JUDGE

FEBRUARY 22, 2022
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Click here to check corrigendum, if any